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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,321	11/21/2003	Dennis Osamu Hirotsu	AA551C	3072

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EXAMINER

CRAIG, PAULA L

ART UNIT	PAPER NUMBER
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3761

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/719,321	Applicant(s) HIROTSU, DENNIS OSAMU	
	Examiner Paula L. Craig	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413),
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/5/07 6/27/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. The rejections of Claims 4 and 10-12 are withdrawn as moot. Applicant's arguments filed June 26, 2007 with respect to the rejections of Claims 1-3 and 5-7 have been considered but are moot in view of the new grounds of rejection.

Claim Objections

2. Claim 2 is objected to because of the following informalities: For Claim 2, lines 3-4, "absorbent articles" should be "sanitary napkins", each occurrence, due to lack of antecedent basis. Also for Claim 2, line 3, "kind of the" should be "kind of the sanitary napkins". Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuske (6,318,555) in view of Lash (5,897,542) and further in view of Brisebois (6,454,095).
5. For Claim 1, Kuske teaches a package for sanitary napkins products, the package including at least one window, an outer surface, and a plurality of sanitary napkins, with the sanitary napkins being seen through the window (window is window

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88, visual cue 96, and accessory window 98, which may be continuous with each other; Figs. 1-12, col. 2, lines 40-48, col. 5, line 21 to col. 7, line 67). Kuske does not expressly teach the package including at least two different types of sanitary napkins, nor the sanitary napkins being individually wrapped with the types of sanitary napkins being identified by an indication means disposed on the respective wrappers. Lash teaches a package for absorbent articles, with the absorbent articles being articles which absorb and contain body exudates, and are placed against the body of the wearer to absorb and contain the exudates (Figs. 1-2, Abstract, col. 1, line 65 to col. 2, line 46). Lash teaches the package including a plurality of disposable absorbent articles contained in the package, the plurality of disposable absorbent articles including at least two different types of absorbent articles having different physical properties or structures (Figs. 1-2, col. 1, line 65 to col. 2, line 6, col. 4, lines 30-32, col. 8, line 59 to col. 10, line 17). Having a type indication means disposed on the respective absorbent articles is considered by the Examiner to be inherent in Lash, as the invention disclosed by Lash would not function as described without some means of distinguishing the first and second article types. Note that a difference in size or thickness between the two types would be an indication means; Lash teaches the first and second article types differing in absorbent capacity, with the greater capacity articles being used overnight when greater capacity is required (Abstract, col. 1, line 65 to col. 2, line 6, col. 8, line 59 to col. 9, line 58). This would not be possible if the two types could not be distinguished by the user. Lash teaches that multiple types in a single package provide convenience (col. 9, lines 47-49). Given that Lash teaches the absorbent articles being articles which

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absorb and contain body exudates and are placed against the body of the wearer to absorb and contain the exudates, and sanitary napkins are absorbent articles which absorb and contain body exudates and are placed against the body of the wearer to absorb and contain the exudates, it would have been obvious to modify Kuske for the package to include at least two types of absorbent articles, as taught by Lash, to provide convenience, as taught by Lash. Brisebois teaches wrapping of sanitary napkins identified by an indication means disposed on the respective wrappers (col. 5, line 14 to col. 6, line 61). Brisebois teaches the indication means including lines, patterns, ornamental designs, symbols and/or characters (Figs. 1-11, col. 3, lines 1-27). Brisebois teaches lines, patterns, ornamental designs, symbols and/or characters providing information about the physical characteristics or structure of the absorbent articles in a way that is visually noticeable, readily visible and understandable to the user (col. 3, lines 1-27, col. 6, lines 1-67). It would have been obvious to one of ordinary skill in the art to modify Kuske for the sanitary napkins to be individually wrapped, and to be identified by an indication means disposed on the respective wrappers, with the indication means including lines, patterns, ornamental designs, symbols and/or characters, as taught by Brisebois, to provide information about the article in a way that is visually noticeable, readily visible and understandable to the user, as taught by Brisebois. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded

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predictable results to one of ordinary skill in the art at the time of the invention. *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (U.S. 2007).

6. For Claim 2, Kuske does not teach the at least two different types of sanitary napkins being defined by the absorbent capacity of the sanitary napkins, the kind of the sanitary napkins, or the dimension of the sanitary napkins. Lash teaches at least two different types of absorbent articles being defined by the absorbent capacity, the kind, or the dimension of the article (col. 1, line 65 to col. 2, line 6, col. 8, line 59 to col. 9, line 59). It would have been obvious to modify Kuske to include the at least two different types of sanitary napkins being defined by the absorbent capacity, the kind, or the dimension of the absorbent article, as taught by Lash, for the same reasons as described above for Claim 1 in paragraph 5.

7. For Claim 3, Kuske teaches the window having a size large enough so that at least 30% of the contained individually wrapped sanitary napkins can be seen through the window (Figs. 1-12, col. 5, line 22 to col. 7, line 67; note that all of the bag may be clear or the window may wrap around all four walls of the package so that most or all of the articles are visible, as described in col. 7, lines 40-67).

8. For Claim 5, Kuske teaches the package having an opening device which has a size large enough so that the sanitary napkins can be picked up by the user through the opening device (opening 76, Figs. 3 and 10, col. 4, lines 37-58, col. 5, lines 8-20). Kuske does not expressly teach different types of sanitary napkins being picked up by the user through the opening device. Lash teaches a package having an opening device so that different types of absorbent articles can be picked up by the user through

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the opening device (opening device 225, Fig. 2 and col. 9, line 47 to col. 10, line 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kuske to include different types of absorbent articles being picked up by the user through the opening device, as taught by Lash, for the same reasons as described above for Claim 1 in paragraph 5.

9. For Claim 6, Kuske teaches the package having a front panel, a rear panel opposed to the front panel, side panels which connect the front and rear panels, and a top panel which connects the front, rear, and side panels (Figs. 3 and 5-12, col. 3, line 57 to col. 4, line 36). Kuske teaches the window being formed on the front panel (Figs. 3, 5-12, col. 5, line 21 to col. 7, line 67). Kuske teaches the opening device being formed on the top panel (Fig. 10, col. 4, lines 37-58, col. 5, lines 8-20; note that the package can be used in more than one orientation).

10. For Claim 7, Kuske teaches the window being formed by differentiating the translucency or the transparency at the window from the area surrounding the window (Figs. 3, 8-9, and 11, col. 5, line 21 to col. 7, line 67).

Double Patenting

11. Claims 1-2 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-11 of Molina (6,601,705). The claims of Molina teach a package for sanitary napkins products, including at least one window and an outer surface (Claims 1-3, 5, and 10). Molina teaches a plurality of individually wrapped sanitary napkins contained in the package (Claims 1-3 and 5). Molina teaches

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a plurality of individually wrapped absorbent articles including at least two different types having different physical properties or structures (Claims 1, 3, 5, and 8; note that contrary to the indication by the Examiner in the Office Action mailed February 26, 2007, Molina teaches two different types of absorbent articles in a single package in Claim 8). Molina teaches each type of absorbent article being identified by an indication means disposed on the wrapper of the absorbent article, the indication means of at least one of the two types of absorbent articles can be seen through the window (Claims 1 and 5-11). Molina teaches the indication means including colors (Claims 1, 5, and 7-10). Molina teaches the types of absorbent articles being defined by the absorbent capacity of the articles (Claim 8). Molina teaches that the package may have more than one window (Claim 4). The claims of Molina do not expressly teach the two different types of absorbent articles in the package being at least two types of sanitary napkins, nor at least one of each of the two types being seen through the window. However, in light of Molina's teaching in the claims that two types of absorbent articles may be present in the package, that the absorbent articles may be sanitary napkins, and that the indication means may be seen through the window, it would have been obvious to one of ordinary skill in the art to modify Molina to include two types of sanitary napkins in the package, and at least one of each of the two types being seen through the window.

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Conclusion

12. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571) 272-5964. The examiner can normally be reached on M-F 8:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paula L Craig
Examiner
Art Unit 3761

PLC

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER
